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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/859,702	05/17/2001	Kwok Ho Chan	2204/A87	4127
34845	7590	07/20/2005	EXAMINER	
STEUBING AND MCGUINESS & MANARAS LLP 125 NAGOG PARK ACTON, MA 01720			TAYLOR, NICHOLAS R	
			ART UNIT	PAPER NUMBER
			2141	

DATE MAILED: 07/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/859,702	CHAN, KWOK HO
	Examiner	Art Unit
	Nicholas R. Taylor	2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 09 May 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 17 May 2000 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

1. Claims 1-20 have been presented for examination and are rejected.

Response to Arguments

2. Applicant's arguments filed 5/9/2005 have been fully considered but they are deemed not persuasive.

3. In the remarks, applicant argued in substance that:

(A) Prior art of Gai only provides information to a router, and not information based upon a communication request message from a first device to a second device.

4. As to point (A), the prior art of Gai does not individually teach providing such information, yet when combined with the prior art of "COPS for RSVP" (e.g. section 1 and figure 1) the combined reference under 35 U.S.C. 103(a) teaches all of the limitations of the claimed invention. Furthermore, as to the obviousness of this combination of COPS-Gai, it is not required that the test for obviousness be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

1. Claims 1, 2, 4, 5, 8, 9, 11, 14, 15, 17 and 18 are rejected under 35 U.S.C. 102(a) as being anticipated by the Cisco white paper “COPS for RSVP.”

Regarding claims 1, 8, and 14, a method of a computer network in establishing communication between a first network device and a second network device, the network including a policy device that controls policy data relating to the communication, (“How COPS for RSVP Works” section and Fig 1)

the method comprising: storing policy data in a storage device accessible by a third network device, the policy data being: (i) provided by the policy device in response to a communication request message from the first network device to the second network device, and (ii) specifically related to communication between the first network device and the second network device (“How COPS for RSVP Works” paragraph and Fig 1, where the Policy Enforcement Point is the third network device and the Policy Decision Point is the policy data storage device);

receiving with the third network device a confirmation message sent by the second network device in response to the communication request message, the

confirmation message indicating that the second network device is prepared to have communications with the first network device; and forwarding from the third network device to the first network device the stored policy data with the confirmation message (“How COPS for RSVP Works” paragraph and Fig 1.)

Regarding claims 4 and 17, the independent claim further comprising: marking data traffic directed from the first network device to the second network device according to the stored policy (“How COPS for RSVP Works” paragraph and Figure 1, more specifically where in listed item number 4, it mentions that “you may configure the router to make those decisions itself (“locally”) without it having to consult first with the PDP server”.)

Regarding claims 2, 9, and 15, the independent claim further comprising wherein the network devices are executing the RSVP protocol (“Feature Overview” paragraph, “How COPS for RSVP Works” paragraph and Figure 1).

Regarding claims 5, 11, and 18, the independent claim further comprising wherein the policy device uses Common Open Policy Service (COPS) protocol (“Feature Overview” paragraph, “How COPS for RSVP Works” paragraph and Figure 1.)

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3, 10, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable in view of the combination of the Cisco white paper "COPS for RSVP" and "Internet Group Management Protocol, Version 2".

Claims 3, 10, and 16 teach the parent claim "wherein the network devices are executing the IGMP protocol."

The Cisco white paper "COPS for RSVP" differs from the claim in that it only specifies RSVP and COPS as possible protocols. The reference "Internet Group Management Protocol, Version 2" teaches the protocol IGMP.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized the IGMP protocol on the invention described in claims 1, 8, and 14. The motivation to do so is given by the applicant in stating, "for example, IGMP can be used as signaling for access control to a multimedia distribution network served by an IP-based backbone for digital video distribution." Or in other words, the use of the IGMP protocol would increase the potential applications for the invention.

3. Claims 6, 12, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable in view of the combination of the Cisco white paper "COPS for RSVP" and "An Architecture for Differentiated Services."

Claims 6, 12, and 19 teach the parent claim "wherein the stored policy data includes a Differentiated Services Code Point (DSCP) marking."

The Cisco white paper "COPS for RSVP" differs from the claim in that it only specifies RSVP and COPS as possible protocols. The reference "An Architecture for Differentiated Services" teaches the protocol DSCP.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized the DSCP protocol on the invention described in claims 1, 8, and 14. The motivation to do so is given by the applicant in stating "Upon receipt of the COPS decision messages the first router 18 installs the DSCP and/or 802.1p marking information in its path state (step 206). Stated another way, the applied policy is stored (as state information) in a memory device that is accessible by the first router 18." Or in other words, the use of the DSCP protocol would increase the potential applications for the invention by providing the router with a means to mark the information in its path state.

4. Claims 7, 13, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable in view of the combination of the Cisco white paper "COPS for RSVP" and "Standards Watch: 802.1p – A Start at Ethernet Prioritization."

Claims 7, 13, and 20 teach the parent claim “wherein the stored policy data includes an 802.1p signaling marking.”

The Cisco white paper “COPS for RSVP” differs from the claim in that it only specifies RSVP and COPS as possible protocols. The Standards Watch: 802.1p – A Start at Ethernet Prioritization” teaches the protocol 802.1p.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have utilized the 802.1p protocol on the invention described in claims 1, 8, and 14. The motivation to do so is given by the applicant in stating “Upon receipt of the COPS decision messages the first router 18 installs the DSCP and/or 802.1p marking information in its path state (step 206). Stated another way, the applied policy is stored (as state information) in a memory device that is accessible by the first router 18.” Or in other words, the use of the 802.1p protocol would increase the potential applications for the invention by providing the router with a means to mark the information in its path state.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas Taylor whose telephone number is (571) 272-3889. The examiner can normally be reached on Monday-Friday, 8:00am to 5:30pm, with alternating Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas Taylor
Examiner
Art Unit 2141



RUPAL DHARIA
SUPERVISORY PATENT EXAMINER